

DEPARTMENT OF SOCIAL SERVICES

744 P Street, Sacramento, CA 95814  
(916) 322-5387



May 2, 1985

ALL-COUNTY LETTER NO. 85-49

TO: ALL COUNTY WELFARE DIRECTORS

SUBJECT: IMPLEMENTATION OF AFDC COURT CASE, EDWARDS V. McMAHON

REFERENCE: EAS 44-340.13

On March 6, 1985, the Alameda County Superior Court issued a final order in the case of Edwards v. McMahon (No. 579067-0). A copy of the order is attached (Attachment A).

This lawsuit requires that former AFDC recipients be reimbursed for underpayments. The Department will be revising current regulations (EAS 44-340.13) which prohibit issuing an underpayment correction to former recipients. These regulations will be issued at a later date through the emergency regulation process.

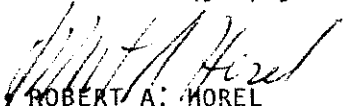
The order is effective March 6, 1985. This means that requests by former recipients for underpayment corrections from that date forward or underpayments to former recipients discovered from that date forward shall be corrected regardless of when the underpayment actually occurred. It is expected that former recipients identify the reason they think they were underpaid and the period of time during which the underpayment occurred. Underpayments shall be offset against any collectable overpayment. (EAS 44-340.42)

The Department will not require former recipients who request an underpayment correction (for an underpayment that occurred before March 6, 1984) to file for a fair hearing despite Section 6(b) of the order. The normal claiming process shall apply. Federal funding will be claimed for these underpayment corrections.

We do not anticipate that there will be a requirement to do a case search for persons who do not apply.

Counties must also return the attached certification form to provide verification to the Department that you are applying the Edwards order. (Attachment B)

If you have any questions, please contact Kathy Layne, AFDC Program Development Bureau at (916) 324-0097 or (916) 322-5387.

  
ROBERT A. MOREL  
Deputy Director

Attachments

GEN 654 (9/79)

EDWARDS V. McMAHON

The County of \_\_\_\_\_, State of California, has issued instructions to eligibility workers to apply the Edwards v. McMahon order effective back to March 6, 1985 and to apply the Edwards order prospectively in accordance with ACL NO. 85-49.

\_\_\_\_\_  
Your Name/Title (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Return completed form to:

Department of Social Services  
AFDC Program Development Bureau  
744 P Street, M.S. 16-25  
Sacramento, CA 95814  
Attention: Kathy Layne

1 EVELYN R. FRANK  
2 W. EDWARD BARNES  
3 LEGAL AID SOCIETY OF ALAMEDA COUNTY  
2357 San Pablo Avenue  
Oakland, California 94612  
Telephone: (415) 465-4376

4 Attorneys for Petitioners and Plaintiffs

ENDORSED  
FILED

MAR 6 - 1985

RENE C. DAVIDSON, County Clerk  
Larry E. Sanow, Deputy

5  
6  
7  
8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 IN AND FOR THE COUNTY OF ALAMEDA

10 HELENE EDWARDS and  
11 CHRISTINE STREICHER,

NO. 579067-0

12 Petitioners and Plaintiffs,

FINAL JUDGMENT, WRIT OF  
MANDATE, STATEMENT OF  
DECISION, AND ORDER

13 vs.

14 LINDA S. McMAHON, et al.,

15 Respondents and Defendants.  
16 \_\_\_\_\_/

17 INTRODUCTION

18 Petitioners Edwards and Streicher are former recipients of  
19 Aid to Families with Dependent Children (AFDC). The defendant  
20 Department of Social Services (DSS) has determined that they were  
21 underpaid assistance while receiving aid. However, the  
22 Department refuses to pay such assistance to petitioners or to  
23 any other former recipients who no longer receive aid.  
24 Petitioners filed this suit against the Department asking for  
25 reimbursement for the underpayments and for an injunction and  
26 writ of mandate to compel the Department to reimburse all former  
27 recipients of public social services for underpayments.  
28 Petitioners now move for summary judgment on their claims. This

1 court, being of the opinion their motion should be granted,  
2 hereby enters summary judgment in favor of petitioners.

### 3 FACTS

4 There are two petitioners in this case, Helene Edwards and  
5 Christine Streicher. Both women are taxpayers, citizens of  
6 California, and former recipients of AFDC.

7 Petitioner Edwards received AFDC as the foster parent of two  
8 children, Lamont Flemings and Ricki Dobbins. During the time  
9 that Edwards cared for the two boys, she repeatedly asked for  
10 annual clothing allowances for them. She was told, however, that  
11 such allowances were unavailable. On August 12, 1982, Edwards  
12 requested an administrative hearing to contest the denials of  
13 annual clothing allowances. A hearing was held, and the officer  
14 who conducted the hearing determined that Edwards was correct in  
15 claiming that she should have received annual clothing  
16 allowances. Accordingly, the officer ordered that Edwards should  
17 be issued retroactive payments to rectify the underpayment. But  
18 the Director of DSS reviewed the officer's decision, and ruled  
19 that Edwards was not entitled to such payments. Although the  
20 Director did not disagree with the officer's conclusion that  
21 Edwards had been underpaid, the Director withheld payment because  
22 Edwards was no longer a recipient of AFDC benefits.

23 Petitioner Streicher's story is similar. During 1982, she  
24 received AFDC benefits for herself and her two children. The  
25 amount of her AFDC benefits was calculated on the assumption that  
26 she was receiving an advance Earned Income Credit ("EIC") payment  
27 from her employer. But she was neither eligible for, nor was she  
28 given, an EIC payment. Early in 1983, Streicher requested and

1 received an administrative hearing regarding the reduction of her  
2 AFDC grant due to the assumption that EIC income was available to  
3 her. The officer in charge of the hearing held that Streicher  
4 had in fact been underpaid and should be reimbursed for the  
5 underpayments. As in Edwards' case, however, the Director of DSS  
6 later overturned the officer's decision on the ground that  
7 Streicher was not currently receiving AFDC benefits.

8       Petitioners bring this suit against DSS for recovery of the  
9 underpayments. They allege that DSS' failure to compensate them  
10 for the AFDC underpayments violates state law. They seek several  
11 forms of relief: (1) administrative mandate commanding DSS to  
12 set aside its adverse decisions and to make the requested  
13 payments, (2) a peremptory writ of mandate prohibiting DSS from  
14 failing or refusing to reimburse former recipients for  
15 underpayments in public social service programs, (3) a  
16 declaratory judgment that DSS had a duty to reimburse former  
17 recipients for underpayments in public social service programs,  
18 and (4) a permanent injunction enjoining DSS from failing or  
19 refusing to reimburse former recipients for underpayments in  
20 public social service programs.

#### 21                   PROPRIETY OF SUMMARY JUDGMENT

22       DSS does not dispute that petitioners were underpaid. DSS  
23 admits it withholds reimbursement for the underpayments because  
24 Petitioners are former recipients. DSS defends its actions as  
25 sanctioned by state law. Thus, it appears that there are no  
26 material disputes of fact in this matter, and the sole issues are  
27 matters of law. Since the Court views the law as requiring  
28 reimbursement for the underpayments, petitioners are entitled to

1 judgment as a matter of law, and summary judgment is appropriate.

2 PETITIONERS' CLAIMS ON THE MERITS

3 California state law requires DSS to reimburse former  
4 recipients of public social services for all underpayments.  
5 Welf. & Inst. Code §11004(i), which requires reimbursement for  
6 underpayments, does not provide for an exception to this  
7 requirement in the case of former recipients:

8 (i) When an underpayment or denial of public social  
9 service occurs and as a result the applicant or  
10 recipient does not receive the amount to which he or  
11 she is entitled, the county shall provide public social  
services equal to the full amount of the underpayment  
unless prohibited by federal law.

12 Welf. & Inst. Code §11004(i)  
13 [emphasis added]

14 Such an exception would defeat the purpose of the statute, which  
15 is to assure that "all persons ... shall receive the assistance  
16 to which they are entitled ...." Welf. & Inst. Code §11004(i).

17 Reimbursement for underpayments may not be conditioned on  
18 current need or eligibility for assistance, Leach v. Swoap (1973)  
19 35 Cal.App.3d 685, 690, since the right to assistance rests on  
20 the first date of entitlement to the benefits, Canfield v. Prod  
21 (1977) 67 Cal.App.3d 722, 729.

22 DSS points out that Section 11004(i) requires reimbursement  
23 "unless prohibited by federal law." However, DSS has referred  
24 the court to no federal law which prohibits the reimbursement.

25 //

26 //

27 //

28 //

1 DSS has raised the possibility<sup>1/</sup> that the federal government will  
2 not help defray the cost of the reimbursement, but that  
3 possibility hardly amounts to a prohibition on state payments.  
4 California welfare statutes operate independently of federal law,  
5 and those statutes may provide for reimbursement even when  
6 federal law offers no such provision. See, e.g., Dermegerdich v.  
7 Rank (1984) 151 Cal.App.3d 848, 851-852; Darces v. Woods (1984)  
8 35 Cal.3d 871, 894-895. The court recognizes that the federal  
9 share of welfare funding is of vital concern to the state. See  
10 Mullaney v. Woods (1979) 97 Cal.App.3d 710. Nevertheless, the  
11 statute at issue here provides relief whether or not there is a  
12 federal match.

#### 13 ADMINISTRATIVE MANDATE

14 Petitioners' first cause of action appeals the decision of  
15 the Department in their individual hearings. For the reasons  
16 stated above, the Department is in error in withholding from them  
17 reimbursement for their underpayments on the ground that they are  
18 former recipients. Therefore, the Department's decision is a  
19 prejudicial abuse of discretion and in excess of lawful statutory  
20 authority and jurisdiction, and petitioners are entitled to a  
21 writ of administrative mandate pursuant to Code of Civil  
22 Procedure §1094.5 reversing the Department's decision.

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23  
24 <sup>1/</sup> This possibility seems remote, since the Federal Social  
25 Security Act requires correction of "any" underpayment, 42 U.S.C.  
26 §602(a)(22), and any regulations to the contrary would violate  
27 the statute. However, that issue is being litigated in federal  
28 court in a related matter. We need not reach a decision on that  
issue for us to hold, as we do, that state law requires  
reimbursement whether or not federal law so requires.

WRIT OF MANDATE

Petitioners' second cause of action requests a writ of mandate to compel DSS to reimburse all former recipients for underpayments. The writ may issue to compel a clear, present, and ministerial duty under state law. When the question, as in this case, is one of public right and the object of the writ is to provide the enforcement of a legal duty, petitioners for the writ need not show any legal or special interest in the result. Green v. Obledo (1981) 29 Cal.3d 126, 144. That petitioners seek review of their individual fair hearing decisions under Code of Civil Procedure §1094.5 in no way precludes them from seeking a writ compelling DSS to reimburse all former recipients for underpayments.

Since DSS has a duty to reimburse former recipients, the writ shall issue.

DECLARATORY RELIEF

It is clear that an actual controversy has arisen and now exists between the parties to this case as to their legal rights and duties with respect to reimbursement of former recipients for underpayments. Pursuant to Code of Civil Procedure §1060, petitioners are therefore entitled, on their third cause of action, to a declaratory judgment as to those rights and duties.

INJUNCTIVE RELIEF

In their fourth cause of action, petitioners, as taxpayers, seek to enjoin DSS from continuing to withhold reimbursement from former recipients. As taxpayers, petitioners have standing under §526a to prevent expenditures made to execute illegal laws, Blair v. Pitchess (1971) 5 Cal.3d 258, 269, even though the



1 expenditures are small or the illegal procedures actually save  
2 money, Wirin v. Parker (1957) 48 Cal.2d 890, 894. Relief under  
3 Code of Civil Procedure §526a may be sought against the state,  
4 Hooper v. Deukmejian (1981) 122 Cal.App.3d 987, 1018, 1019.  
5 There is no distinction between compelling and restraining action  
6 in the statute.

7 Since the Department's failure to reimburse former  
8 recipients for underpayments is illegal, petitioners are entitled  
9 to the injunction they request.

10 IT IS THEREFORE ORDERED, ADJUGED AND DECREED:

11 1. Summary judgment shall be and hereby is entered for  
12 petitioners on all causes of action;

13 2. DSS shall set aside its decisions of November 26, 1982,  
14 and May 31, 1983, and pay each of petitioners the amount of the  
15 underpayments determined therein, plus interest;

16 3. Declaratory judgment is hereby entered declaring that,  
17 under Welf. & Inst. Code §11004(i) and California state law,  
18 respondents have a duty to reimburse former recipients for  
19 underpayments in public social services programs. All  
20 regulations and policies of respondents in conflict with this  
21 duty are declared null and void;

When OTHER  
PROGRAMS?

22 4. A peremptory writ of mandate hereby issues prohibiting  
23 respondents from failing or refusing to reimburse former  
24 recipients for underpayments in public social services programs;

25 5. Respondents are permanently enjoined from failing or  
26 refusing to reimburse former recipients for underpayments in  
27 public social services programs;  
28

1       6. The court reserves its opinion as to the extent to  
2 which, if any, the writ of mandate and permanent injunction shall  
3 operate retroactively. The parties have advised the court that  
4 they are negotiating this issue. Consequently, until further  
5 order of this court, the writ and injunction shall issue  
6 prospectively only, in the following manner:

7           a) This order shall be effective as of the date of  
8 its filing.

9           b) As of the effective date of this order, any  
10 underpaid former recipient who, within the time limit  
11 provided by law, (currently ninety days, as provided by  
12 Welf. & Inst. Code §10951) requests an administrative  
13 hearing to contest respondents' failure to provide such  
14 benefits, shall be paid the full amount of the underpayment.

15           c) On all claims for overpayments against former  
16 recipients not yet reduced to judgment as of the effective  
17 date of this order, respondents shall offset any  
18 underpayments against those claims for overpayments.


19           d) With respect to claims for underpayments to former  
20 recipients of public social services which accrued prior to  
21 the effective date of this order, respondents are not, until  
22 further order of the court, under any obligation to review  
23 any closed files to find such underpayments. Furthermore,  
24 respondents' liability for such claims under this order is  
25 limited to that set forth in sections b) and c), above.

26           e) With respect to claims for underpayments to former  
27 recipients of public social services which are accrued after  
28 the effective date of this order, respondents are prohibited

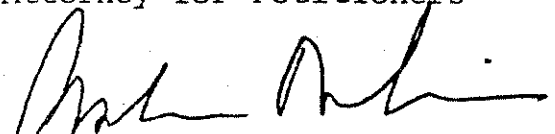
1 and permanently enjoined from failing or refusing to  
2 reimburse all former recipients for the underpayments.

3 7. Petitioners shall collect attorneys' fees in the amount  
4 of \$6,414.80, plus costs.

5  
6 Approved as to Form:

7  
8   
9 EDWARD BARNES  
Attorney for Petitioners

DATED: 2/19/85

10   
11 ASHER RUBIN  
12 Attorney for Respondents

DATED: 2/15/85

13  
14 SO ORDERED.

15  
16 DATED:

MAR 6 - 1985

HENRY RAMSEY JR.  
\_\_\_\_\_  
SUPERIOR COURT JUDGE

